

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Demarcus Raynel Ratcliff
Unlicensed,

Enforcement Case No. 21-16605

Respondent.

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Issued and entered
on December 15, 2021
by Randall S. Gregg
Senior Deputy Director

**ORDER TO CEASE AND DESIST WITH STATEMENT OF FINDINGS
AND NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, and after reviewing evidence of the conduct described in the attached Statement of Findings, and

WHEREAS the Director of the Department of Insurance and Financial Services finds that immediate action is necessary and appropriate in the public interest for the protection of the public health, safety, and welfare and consistent with the purposes fairly intended by public policy and provisions of the Code,

IT IS THEREFORE ORDERED THAT:

1. Respondent shall immediately **CEASE AND DESIST** from all activities in violation of the Code as described in the Statement of Findings.
2. A copy of this Order shall be immediately served upon Respondent and shall be effective upon the date of service.
3. Respondent will have 30 calendar days after the service of this Order to contest it, or any finding in the attached Statement of Findings, by requesting a hearing. Within 10 calendar days after receiving the request, the hearing process shall commence. If a hearing is requested, an administrative law judge from the Michigan Office of Administrative Hearings and Rules shall preside over any such hearing.
4. Any such hearing held shall address the following issues:
 - (a) The facts set forth in the Statement of Findings.

- (b) The continuation of the Order to Cease and Desist.
 - (c) Restitution to be paid by the Respondent.
5. Requests for a hearing should be addressed to the Department of Insurance and Financial Services, Attention: Randie Swinson, Hearings Coordinator, P.O. Box 30220, Lansing, MI 48909-7720 or faxed to 517-284-8843.
6. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate. This includes the authority to issue a final order requiring Respondent to continue to cease and desist from the unlicensed and/or fraudulent activity described in the Statement of Findings below, requiring payment of a civil fine and/or restitution for such activity, as well as any other penalty or remedy available under the law.
7. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:
- (a) Payment of a civil fine of not more than \$1,000.00 for each violation not to exceed an aggregate civil fine of \$30,000.00. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than \$25,000.00 for each violation not to exceed an aggregate civil fine of \$250,000.00.
 - (b) Suspension or revocation of the person's license or certificate of authority.
 - (c) Complete restitution, in the form, amount, and within the period determined by the Director, to all persons in Michigan damaged by the violation or failure to comply.



Randall S. Gregg
Senior Deputy Director

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STATEMENT OF FINDINGS

1. Pursuant to Section 251(1) of the Code, MCL 500.251(1), the Director is empowered to issue a cease and desist order upon finding any of the following:
 - (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
 - (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.
 - (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.
 - (d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare. MCL 500.251(1).
2. Pursuant to Section 150 of the Code, MCL 500.150, the Director is empowered to issue a cease and desist order, and order payment of a civil fine up to \$1,000.00 per violation upon a finding that a person violated any provision of the Code, or other laws applicable to the violation, for which a specific penalty is not provided. This same provision authorizes a fine of up to \$5,000.00 per violation if the Director finds that the person knew or reasonably should have known that he or she was acting in violation of the Code, a fine up to \$5,000.00 per violation may be imposed.
3. Section 150(3) of the Code, MCL 500.150(3) also empowers the Director to order a civil fine of \$20,000.00 for each knowing violation of a cease and desist order issued pursuant to Section 150.
4. Under Section 1201a(1) of the Code, it is a violation for a person to sell, solicit, or negotiate insurance in this state for any line of insurance without first obtaining a license or qualification for that line. MCL 500.1201a(1).

- (a) "Agent of the insured" means an insurance producer who is not an appointed insurance producer of the insurer with which the insurance policy is placed. An agent of the insured is treated as representing the insured or the insured's beneficiary and not the insurer." MCL 500.1201(b).
 - (b) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance. MCL 500.1201(g).
 - (c) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. MCL 500.1201(m).
 - (d) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. MCL 500.1201(n).
 - (e) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. MCL 500.1201(o).
- 5. Section 1208a(1) of the Code, MCL 500.1208a(1), prohibits an insurance producer from acting as an agent of the insurer unless the insurance producer becomes an appointed agent of that insurer.
 - 6. Section 2271(a) of the Code, MCL 500.2271(a) prohibits a person from issuing or delivering a certificate of insurance that purports to "alter, amend, or extend the coverage provided by an insurance policy referenced in the certificate of insurance."
 - 7. Sections 2271(b) of the Code, MCL 500.2271(b), prohibits any person from preparing or issuing "a certificate of insurance that contains any false or misleading information concerning an insurance policy referenced in the certificate of insurance."
 - 8. Section 3101a of the Code, MCL 500.3101a, requires the submission of information necessary to verify the issuance of the automobile insurance policy for each insured vehicle and penalizes the submission of false information to the Secretary of State under this section. See MCL 500.3101a(1), MCL 500.3101a(5).
 - 9. Section 4503 defines a fraudulent insurance act to include the following acts or omissions committed by any person knowingly, and with intent to injure, defraud or deceive:
 - (a) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer or any agent of an insurer, or any agent of an insurer, reinsurer, or broker any oral or written statement knowing that the statement contains any false information concerning any fact material to an application for the issuance of an insurance policy[;]

- (c) Presents or causes to be presented to or by any insurer, any oral or written statement including computer-generated information as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false information concerning any fact or thing material to the claim[;]
- (d) Assists, abets, solicits, or conspires with another to prepare or make any oral or written statement including computer-generated documents that is intended to be presented to or by any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false information concerning any fact or thing material to the claims[;]

- (g) Diverts, attempts to divert, or conspires to divert funds of an insurer or of other persons in connection with any of the following:
 - (i) The transaction of insurance or reinsurance[;]
 - (ii) The conduct of business activities by an insurer[; or]
 - (iii) The formation, acquisition, or dissolution of an insurer.

- (i) Knowingly and willfully assists, conspires with, or urges any person to fraudulently violate this act or any person who due to that assistance, conspiracy, or urging knowingly and willfully benefits from the proceeds derived from the fraud. MCL 500.1201.

Solicitation and Sale of Fraudulent Insurance Certificates

- 10. DIFS Staff received information about possible unlicensed activity by Respondent Demarcus Raynel Ratcliff (Respondent Ratcliff). DIFS Staff reviewed DIFS' records to confirm that Respondent Ratcliff has never been licensed to sell, solicit, or negotiate Property and Casualty Insurance in Michigan.
- 11. After an investigation, DIFS Staff concluded that Respondent Ratcliff has engaged in activities regulated by the Code, without the requisite license, and has violated the insurance laws of this state, based on the following facts:
 - (a) Respondent Ratcliff maintains a Facebook profile under his name "Demarcus Ratcliff." The photograph posted on the "Demarcus Ratcliff" Facebook profile appears to match the photograph on Respondent Ratcliff's state-issued ID.
 - (b) Multiple advertisements for fraudulent automobile insurance certificates appeared on this post, including the following:
 - i. On March 17, 2021, a post on Respondent Ratcliff's Facebook Profile read "Car insurance same day 6months no fault... inbox me[.]" A picture accompanying the post included an envelope and what appears to be a Farm Bureau Insurance

Company certificate of No-Fault Insurance with a policy number [REDACTED], effective date March 13, 2021, and an expiration date of September 13, 2021.”

- ii. In May and June 2021, multiple posts appeared on Respondent Ratcliff’s Facebook Profile advertising Farm Bureau insurance certificates with fraudulent numbers for the named insureds, as follows:

<u>Date of Facebook Post</u>	<u>Facebook Post</u>	<u>Policy Number on Certificate of Insurance Pictured in Facebook Post</u>	<u>Named Insured on Certificate Pictured in Facebook Post</u>
June 22, 2021	“Car insurance? I got it.”	[REDACTED]	D.B.
June 3, 2021	“Tap in ... all auto insura[nce].”	[REDACTED]	J.O.H.
		[REDACTED]	D.R.
		[REDACTED]	S.E.
June 9, 2021	“Tap in real insurance”	[REDACTED]	R.W.
June 2, 2021	“Not just car insurance any motorcycles cars pickups rv’s tow trucks whatever you got I got insurance for it. Tap in real insurance”	[REDACTED] [REDACTED] (certificate purported to insure a 2001 Harley-Davidson)	F.D.
May 25, 2021	“Tap In”	[REDACTED]	A.C.T.

12. Upon DIFS’ inquiry, Farm Bureau confirmed that these policy numbers do not correspond either to a valid policy, or to a policy issued to the named insured on the certificate.
13. DIFS’ investigation revealed that Michigan Department of State (MDOS) received fraudulent copies of the above-identified fraudulent certificates for R.W., D.R., S.E., and F.D. These certificates identified [REDACTED] as the producer with a telephone number of [REDACTED]. Per MDOS Staff, the telephone number on these certificates did not connect to [REDACTED] appointment with Farm Bureau ended before the date of the certificate. MDOS discovered more than 350 other fraudulent certificates of insurance with [REDACTED] as the producer after the date [REDACTED] appointment with Farm Bureau ended.
14. By attempting to sell insurance as an agent of Farm Bureau without an appointment, Respondent Ratcliff violated Section 1208a(1) of the Code, MCL 500.1208a(1).

15. By soliciting, negotiating, and selling insurance, Respondent Ratcliff is acting as an unlicensed insurance producer in violation of Section 1201a of the Code, MCL 500.1201a(1).
16. By selling documents that purported to be certificates of insurance with invalid policy numbers or in the name of a person other than the person identified as the named insured on the certificate, as described in paragraphs 11 and 12 above, Respondent violated Sections 2271(a) and (b) of the Code, MCL 500.2271(a), (b).
17. By carrying out the conduct described in paragraphs 10 through 16 above, Respondent Ratcliff conducted multiple fraudulent insurance acts as defined in Section 45 of the Code, MCL 500.4503. The penalty for such acts may include the imposition of a civil fine up to \$1,000.00 per violation, or \$5,000.00 per violation if the Director finds that the Respondent knew or reasonably should have known that his conduct was in violation of the Code. The maximum civil fine here is \$50,000.00. MCL 500.150(1)(a). Criminal penalties are also possible separate from the Director's administrative authority. MCL 500.4511.
18. The above-described violations of Chapter 12 of the Code authorize the Director to issue a cease and desist order pursuant to Section 251(1) of the Code, MCL 500.251(1).
19. The above-described violations of Chapters 12 and 22 of the Code also justify sanctions under Section 1244 of the Code, MCL 500.1244, and Section 2277 of the Code, MCL 500.2277. Such sanctions may include civil fines in the equal to restitution plus either \$1,000.00 per violation, or \$5,000.00 per violation if the Director finds that the Respondent knew or reasonably should have known that he was acting in violation of Chapter 12, and/or in the amount of \$500.00 per violation, or \$2,500.00 per violation in the event that the Director finds that the Respondent knew or reasonably should have known that he was acting in violation of Chapter 22 of the Code. See MCL 500.1244(1); MCL 500.2277(a). Fines for conduct in violation of Chapter 12 shall not exceed \$50,000 plus restitution, and fines for conduct in violation of Chapter 22 shall not exceed \$25,000.00. See MCL 500.1244(1)(a); MCL 500.2277(a).

Presentation of a Fraudulent Certificate of Insurance In Connection with Vehicle Purchase

20. On March 13, 2021, Respondent Ratcliff purchased a 2012 Chevy Traverse from MVP II Auto Sales located at [REDACTED] and submitted a fraudulent Farm Bureau certificate of no-fault insurance to register the vehicle with MDOS. The fraudulent certificate listed [REDACTED] as the producer and phone number [REDACTED].
21. By providing the MVP II Auto Sales with a falsified certificate of no-fault insurance for the purpose of allowing MVP II Auto Sales to transmit the same to MDOS, Respondent Ratcliff is in violation of MCL 500.3101a(5) and MCL 500.2271, (b), and of committing a fraudulent insurance act in violation of MCL 500.4503.
22. Violation of Section 3101a of the Code, MCL 500.3101a, or Section 4503(g) of the Code, MCL 500.4503, may result in the imposition of criminal penalties separate from any administrative action by the Director. MCL 500.3101a(5); MCL 500.4511.

23. Violation of Chapter 22 of the Code may subject Respondent to civil sanctions in the amount of \$500.00 per violation, or \$2,500.00 per violation if the Director finds that the Respondent knew or reasonably should have known that the conduct violated this Chapter, with a maximum possible penalty of \$25,000.00. MCL 500.2277(a).
24. Violation of any of the above-cited Sections or Chapters of the Code for which a penalty is not otherwise provided may subject Respondent to civil sanctions under Section 150 of the Code, MCL 500.150, including a final cease and desist order, and/or payment of a civil fine up to \$1,000.00 per violation or \$5,000.00 per violation if the Director finds that the Respondent knew or reasonably should have known that he was acting in violation of the Code. The maximum civil fine under this section is \$50,000.00. MCL 500.150(1)(a).